

Protection or Punishment? A Comparative Analysis of Child Soldiers in  
Germany and Sierra Leone

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## **Abstract**

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Abstract: The thesis presents an analysis of the literature of child soldiers to show how child soldiers may be recruited, used and treated in the armed forces. Theories explaining the use of child soldiers as well as conflicting arguments are presented. An analysis of the case studies of child soldiers in Germany in World War II and in Sierra Leone in the civil war beginning in 1991 shows that manipulation and coercion play a role in the actions of child soldiers. Legislation pertaining to child soldiers is identified and similarities are discussed as well as the legislations' limitations in protecting children affected by war. Measures taken to punish those who commit war crimes, including recruiting children into armed forces, are examined. Efforts to rehabilitate and reintegrate former child soldiers are discussed and evaluated. The thesis concludes by suggesting restorative justice and peace education as favorable alternatives to punishment in the case of former child soldiers.

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## INTRODUCTION

According to estimates between 300 000 and 500 000 child soldiers are participating in armed conflict in countries around the world today. Child soldiers are most common to Africa however this phenomenon is not limited to that continent. Since 2001, child soldiers have been involved in twenty-one armed conflicts in almost every region on the globe (Human Rights Watch, 2008). Child soldiers are used by rebel armies and, in some cases, national governments in Asia, Latin America, Europe, and the Middle East. This phenomenon is not new as child soldiers were used in both World War I and World War II.

Recently this topic surfaced to the forefront of international news as an internet video campaign for the capture and arrest of war criminal Joseph Kony, leader of the Lord's Resistant Army in Uganda. The video was created by the Invisible Children's campaign to raise support for Kony's arrest and set a precedent for international justice. The video spread virally and depicted Kony's brutal and unmerciful war tactics and unrelenting recruitment and use of children as soldiers. Although the video was successful in bringing awareness to the issue by reaching many who have probably never heard of Joseph Kony, the video's merits were also heavily criticized due to the personal life and actions of the video's creator.

The phenomenon of child soldiery deserves attention and action because of its importance as an international issue. Efforts to end the use of children in war have focused mainly on demobilizing and disarming such children but have fallen short the

process of rehabilitating them. After demobilization, many children are left with little to no support from the international community.

One case with which Canadians are familiar with is that of Canadian citizen Omar Khadr. Khadr was captured in 2002 at the age of fifteen in Afghanistan after fighting off American forces in battle. The Pentagon alleges that the (American) soldiers approached the rubble, believing everyone was dead. Omar emerged and threw a grenade that killed Sergeant First Class Christopher Speer (Shephard, 2008, x). In the subsequent fire fight, Khadr was wounded, transported, and taken to Guantanamo Bay in Cuba making him one of the youngest prisoners held in the camp. Further, Khadr is the first person since World War II to be prosecuted in a military court for war crimes committed as a minor (age fifteen). Khadr, now twenty-five years old, remains in Guantanamo until today. Since his capture, Canada has not attempted to extradite or repatriate Khadr, leaving him in the hands of U.S. authorities at Guantanamo Bay. As a result of his charges of war crimes and terrorism and the plea deal with the U.S., Khadr will spend eight additional years in confinement in Canada after one more year in solitary confinement in Guantanamo Bay. Videos and documents concerning Khadr's detention have been sent from U.S. authorities to Canada's Public Safety Minister Vic Toews for consideration. The Canadian government has until mid-September to file a response to the request for Khadr to be returned to Canada to serve the remaining seven years of his sentence. Currently, the timeline has yet to be finalized (The Canadian Press, 2012).

Though there have been attempts to define it, no one knows what effect indefinite detention can have on a person. It has been concluded, though, that Khadr was experiencing symptoms consistent with those exhibited by victims of torture and abuse

(Shephard, 2008, 173). However the mistreatment Khadr endured as part of his detention is not the focus of this paper. Khadr has been referred to as many things; a murderer, a terrorist, a child soldier, and a victim. What is key here is that Khadr is being held for crimes he may or may not have committed while under the age of sixteen.

Khadr's case is not unique in that it involved a child being accused committing actions during war that led to the death of another soldier. Khadr was abandoned not only by his native country but by the international community and held in a facility set up outside of the reach of the law. It is for this reason that children at risk of recruitment and participation in armed conflict must be protected in all aspects of international law.

In this paper I will be arguing for the need for special protection and the rehabilitation of children participating in conflict after their demobilization. I will be discussing conflicting arguments and drawing on evidence that suggests not only that children affected by conflict are currently not protected by international law but that action needs to be taken that will prevent further mistreatment and abandonment of child soldiers. **Children should not be punished for their actions during wartime because they are based on coercion, their recruitment is illegal, and finally, to continue their development post-conflict they require special protection and rehabilitation.**

Germany and Sierra Leone will be used as case studies to describe the actions taken and damage caused by child soldiers as well as the lack of efforts to reintegrate former child soldiers back into society post-conflict. In each case I will also be discussing the actions taken to punish those involved in the conflict. As well, with regards to documents created to protect children I will explain these documents and discuss their

limitations. In concluding, I will determine that there is a need for action concerning the rehabilitation and treatment of former child soldiers with appropriate recommendations.

## METHODOLOGY

The case of German child soldiers in World War II and Sierra Leonean child soldiers during civil war in 1991 were selected on the following parameters. In each case, child soldiers were recruited by either national armed forces or other armed groups in wartimes and were the perpetrators of human rights abuses. The German case provides a historic example that allows the reader to see how children can be manipulated by an authoritative leader into fully committing themselves to the cause. Accounts from the war depict completely militarized children obedient to authorities and persistent in fighting to achieve the nation-wide goal. Further, this case proves that the child soldiering phenomenon is not recent or specific to developing countries. The Sierra Leonean case was selected due to the availability of literature explaining the cause of the conflict, the actions of the children as soldiers, and the resulting Special Court for Sierra Leone that prosecuted those responsible. The Sierra Leone case is best known for the alarmingly high number of children used as combatants as well as the brutal and relentless war tactics used by both the national army and the rebel forces. Also, the mandate for the Special Court for Sierra Leone illustrates that those who illegally recruit children into armed forces and take a leadership role in the conflict should be punished under international law. Finally, it shows children should play an important role in the reconciliation and peace process in the aftermath of conflict.

The legal documents presented in this thesis were selected on the basis of their relevance to children's participation in armed conflict. These documents are in agreement on a number of terms: first, children are deserving of special protection in international law. Secondly, war-affected children should be rehabilitated and reintegrated into society. And lastly, children should be considered victims as the practice of their recruitment is illegal under international law. Upon assessing the relevant documents I have been persuaded by those that are meant to protect children and are against punishment for participation in war.

## LITERATURE REVIEW

The topic of child soldiers has been analyzed from various angles such as war crimes, human rights abuses or the effects of war on children, and so on. It has also been argued that there is need to establish minimum age of criminal responsibility in war, obligation to punish those who recruit children into war, and the need for increased efforts to prevent the recruitment of children into armed groups. Although some academics advocate the punishment of former child soldiers, most focus on educating the reader on this growing phenomenon. Literature dealing with child soldiers can be classified within five key themes; a) the definition or description of the term 'child soldier', b) statistics and current information, c) matters of recruitment (including seemingly voluntarily recruitment), d) the function and uses of child soldiers during war times and finally, e) the psychological and physical treatment of child soldiers by recruiters. The literature in these categories describes and analyzes the lives of children acting as soldiers within government and non-governmental units.



Within the literature on child soldiers and their use in times of conflict, two authors stand out because of their influential contributions. Graca Machel's 2000 report 'The Impact of Armed Conflict on Children' prepared for the Secretary-General of the United Nations is important to discuss as it is a rich source of knowledge and influence in this work. The report describes and analyses the efficacy of current international standards in protecting children in conflict situations. In concluding, Machel calls for action from the international community to improve the protection and care for children affected by conflict. Upon presentation of the report to the United Nations General Assembly, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG-CAAC) was created in 1997. In 2006 with the financial help from countries such as Canada, Australia, France, Germany, and others, OSRSG-CAAC and UNICEF teamed up to prepare a 10-year strategic review of progress since the publication of the Machel Report. Since the 1996 report, all but two countries are State Parties to the Convention on the Rights of the Child (CRC) (United Nations Children's Fund, 2009, 57). The Machel Report also promoted the ratification of the Optional Protocol (OPAC) to the CRC which prohibits the use of children under eighteen in armed conflict. The OPAC entered into force in 2002.

Romeo Dallaire, Canadian senator, has written many articles and chapters in books on conflict resolution, humanitarian assistance, and human rights. Dallaire points to the lack of consistent investment in prevention which includes educational and employment opportunities for youth as well as the lack of interest from the international community in protracted conflicts as significant impediments to progress (Nutt, 2010, para. 11). More notably, he is known for his remarkably detailed and personal account

written in 2010 of the child soldier phenomenon and recommended solutions to eradicate it. Dallaire began researching child soldiery and conflict resolution after the atrocities committed by and against children during the Rwandan genocide of 1994 which he witnessed as a Lieutenant General in the Canadian Forces. Dallaire also began the Child Soldier Initiative, created with the goal of eliminating the use of child soldiers. The project is designed to critically understand and eventually prevent the use of child soldiers. Dallaire has made the eradication of child soldiers his life-long goal.

### *Defining child soldiers*

To build the foundation for the basis of the argument being presented in this thesis, it is necessary to make explicit how youth is understood in this context. Park (2010) states that there is a wealth of sociological and anthropological literature that aims to denaturalize the idea of childhood and posits that there are a multitude of childhoods across cultures, throughout history and across geographical spaces (p. 332). This leads us to believe that the concept of childhood is contingent rather than universal. Therefore, the arguments being presented are contingent on the fact that youth shall be understood as one of the earliest stages of life characterized by immaturity, innocence, and dependence. Childhood is not meant to deprive children of their freedoms as human beings; rather this stage of life requires special protection to allow for development and growth.

Simply, a child soldier can be defined as “any child—boy or girl—under the age 18 who is compulsorily, forcibly, voluntarily recruited or otherwise used in hostilities by armed forces, paramilitaries, civil defense units or other armed groups” (Machel, 2000, 9; Blomquist, Peuschel, Diouf, & Musomba, 2009, 46). Although the definition of children

and therefore of child soldiers varies between countries and cultures, most of the authors define child soldiers as all people under the age of 18 who are part of a country's armed forces or of a non-government entity (Druba, 2002, 271). Francis (2007) classified child soldiers according to their placement within two broad classifications. The author distinguishes between:

Child soldiers in conflict and non-conflict situations, and those within national armies and those within rebel factions and armed groups, the second group differentiates between the use of child soldiers as direct combatants and front-line troops and those categorized as support child soldiers, i.e. those playing support roles. (p. 215)

Summarily, child soldiers are differentiated according to the nature of the conflict, their placement within different groups engaging in war, and their function in war.

The literature leaves one with the impression that there is an agreement that child soldiers can be defined as those who are under eighteen and are part of a group engaged in war in some respect. As this consensus is drawn from examining academic literature and international legislation, it follows then that questions of consensus between those sources and domestic law and other documentation may follow. Is it safe to conclude that this consensus is supported by the majority of formal measures taken to address the issue of child soldiery? If not, what issues may surface? This will be discussed further in depth later in this paper.

### *The growing phenomenon of child soldiers*

The literature on child soldiers agrees that the practice is growing globally (Grossman, 2007, 326). Children were actively involved in armed conflict in government military forces or non-state armed groups in eight countries from 2004 to date: Burundi, Central

African Republic, Chad, Cote d'Ivoire, DRC, Somalia, Sudan, and Uganda (Blomquist et al., 2009, 25). Participation can be thought of as partly demographic as half or more of the population of African countries are under the age of eighteen (Peters & Richards, 1998, 183).

Webster (2007) states that “due to the rapid expansion of this practice after the Cold War, the last fifteen years have come to be known as the “era of the child soldier” ” (p. 299). This is due to the creation of a new security environment characterized by the narrowing distinction between peace and war, growing number of intrastate conflicts, the multiplication of actors, and the increased use of irregular warfare and insurgent tactics (Vautravers, 2009, 98). Additionally, an overwhelming amount of literature addresses the issue of child soldiers globally by depicting just how many children become involved in war in modern times. Of the 31 countries involved in armed conflict in 1998, eighty-seven percent used child soldiers below the age of 18 and seventy-one percent used child soldiers below the age of 15 (Vautravers, 2009, 96). These figures have remained stable since then. Furthermore, Webster (2007) argues that:

Current estimates suggest that more than 300 000 children are involved in armed conflicts throughout the world. Though West Africa and the Great Lakes region receive the most attention for the use of child soldiers, the problem is endemic to Colombia, Nepal, and several Southeast Asian states such as Burma, Cambodia, and the Philippines. (p. 228)

Within the past decade millions of children have been killed, orphaned, or permanently impaired due to their participation in armed conflict (Sheppard, 2000, 37). Though it seems there is a consensus that upwards of 300 000 children have become involved in war, it is difficult to produce a more reliable number “as conflicts flare up and children are killed, wounded, grow older and are replaced by other children, the cumulative total is

much higher” (Machel, 2000, 9). Furthermore, “numbers are “deliberately vague and conservative,” however, because “no one keeps real statistics” on child soldiers” (Webster, 2007, 236).

Some authors have addressed the issue of national governments and armies participating in the recruitment of children into their forces. Webster (2007) states that “national governments that send children to the frontlines include the DRC, Rwanda, Sudan and the United States” (p. 232). Myanmar—with over 70 000 recruits—is reputed to have the largest number of child soldiers serving in its national military (Webster, 2007, 232).

African countries represent approximately 120 000 of the 300 000 child soldiers globally (Webster, 2007, 231). We can infer that most child soldiers are from developing countries. However, this means that there are still many child soldiers being used in war outside of what many would deem a third-world country allowing for the conclusion that “the problem is far more widespread than media reports and popular images might intimate” and that child soldiering is not unique to African countries (Webster, 2007, 231). Concerning this issue, Foneska (2001) states that “the use of child soldiers is not confined to the developing world or countries racked by armed conflict. Of the 19 NATO members, 13 countries recruit children under 18 years of age into their military forces” (p. 76). This being said, we must consider the difference in treatment between child soldiers from developing countries and underage teens that sign up for the armed forces with consent from their parents or guardians. As many as twenty thousand underage soldiers served in World War I (Cook, 2008, 41). Young boys often lied about their age to take part in the fight and show their patriotism. They played an important part in Canada’s war

effort as the boys participated in variety of support roles as well as leading men into battle. However, it is important to note difference of treatment between these young boys and those in some African countries who suffer mental and physical abuse at the hands of their recruiters. The Canadian boys were treated in the same manner as their older counterparts and were mostly accepted into the ranks in apprenticeship roles with duties such as drummer boys and sailors (Cook, 2008, 42).

Though not exhaustively, the age of recruitment has been discussed as well.

Grossman (2007) writes:

Paramilitary groups in Colombia have recruited children as young as eight years old; eleven-year olds have been drafted into the Northern Alliance in Afghanistan; and teenage boys are frequently forced from their villages into the national army in Myanmar. (p. 325)

As much of the literature focuses mainly on countries such as Africa, Latin America, and Asia, it might be worthwhile recalling that child soldiering has also been practiced in the developed world. In North America, “the United States accepts volunteers from the age of 17 years and until now have deployed 17 year olds in operations such as the Gulf War, Somalia, and Bosnia” (Foneska, 2007, 76). During the late 1930s Hitler promulgated a law which made membership in the Nazi youth movement in Germany compulsory for all children between the ages of 10 and 18. Youth were discouraged from joining other organizations, especially the boy scouts. Members of the Hitler youth received military training (Horn, 1976, 433).

The existing literature claims that the numbers of child soldiers stands at approximately 300 000 globally and is increasing. However, it is difficult to produce an accurate number of how many children are actually involved in child soldiering as

statistics are generally vague in nature. Some have focused on the use of child soldiers in national governments and armies in North American countries as well as the age in which some of these countries recruit individuals. Though these areas are touched on, it might be valuable to investigate these issues further as the problem is global and not merely a third-world issue. As well, it might be appropriate for comparisons between countries to be made rather than producing collective statistics on all child soldiers.

### *Recruiting child soldiers*

A good number of works identify the risk factors for the recruitment of child soldiers. War itself is the most fundamental factor behind the participation of children in warfare (Barstad, 2009, 143). However, recruitment during times of peace shows that war is not a necessary precondition. Webster (2007) states that prolonged, low-intensity conflicts increases the risk for recruitment because parents and children become separated and because growing up in such war-torn areas increase the likelihood of involvement (p. 233). Similarly, the more protracted the conflict, the higher the likelihood of child participation (Grossman, 2007, 326; Foneska, 2001, 70). Removal of basic necessities and protective mechanisms ensures that children are particularly vulnerable to all manner of influences, most notably where the family unit has been fragmented or destroyed in the chaos of war (Faulkner, 2001, 495).

Governments may be inclined to recruit children, particularly when there is a dearth of adult soldiers (Foneska, 2001, 73). Webster (2007) states that some groups faced with shortages of “manpower” turn to minors to fill the ranks (p. 234). A fighting force may see the use of children as essential to its survival as they are often relied on for

support roles (Barstad, 2009, 143). As well, children become vulnerable to recruitment and attack, especially when walking long distances to school. Girls are less likely to go to school in such high-risk environments (Machel, 2000, 32). Children who join armed forces before the age of eighteen even if for training purposes run the risk of participation in hostilities should they break out.

Peters (2011) states that conscription, participation, and reconscription are influenced by economic constraints and educational constraints, and political exclusion (p. 25). Various scholars discuss the possible advantages of children to fight wars for those who use them. Webster (2007), for example, states that:

First, their naiveté attracts those who seek to sculpt impressionable minds, and teach them to commit horrific acts, secondly, armed forces favor children because their physical features may be profitably exploited on battlegrounds... moreover, their size, weight, and agility make them better-suited for certain activities, and lastly, in this age of light, cheap, and advanced technology, small hands can handle large arms. (p. 234)

This is supported by Sheppard (2000) who writes “technological advances in the production of light weaponry have certainly facilitated the involvement of children in armed combat; however, their vulnerability to being used in active combat roles is primarily associated with their diminished psychological and emotional development” (p. 38). Children are easy to manipulate, obedient, and particularly easy to train for special operations and sabotage missions (Francis, 2007, 215).

Armed groups place children on the frontline so that adults will take pity and not fire on them (Webster, 2007, 235). Children have military capabilities, net operational advantages and tactical effectiveness that make their employment attractive to commanders. The reasons range from the social and historical (such as poverty and



instability), to the practical and tactical (such as increasing availability of children in developing countries, their intrinsic malleability, and the accessibility of small arms or light weapons easy for them to use), to the downright sinister (proven “successes” in the field, legal impunity, and outright disregard for the humanity of individual children) (Dallaire, 2010, 110). In conclusion, children may be used as soldiers for war-time goals such as the mobilization populations for total war, the mobilization of forces for resistance against a central power, and control over populations. They may be targeted by recruiters as they are a cheap and unlimited resource and they can be controlled and disciplined through the use of alcohol and other substances (Vautravers, 2009, 100).

Those who argue that child soldiers should be punished for their acts in war times claim that some children enlist voluntarily and therefore choose to commit horrific acts, as opposed to forced recruitment. However, children choose to enlist for numerous reasons. So-called voluntary recruitment is often conditioned by factors beyond the child’s control (Barstad, 2009, 143). A growing body of field specialists assumes that children admire such groups and desire to join them because a soldier’s power enables him or her to instill fear. Youngsters join because they believe they can gain respect, while at the same time control their fear (Basta, 2000, 41). Child soldiers take up arms to survive, to seek vengeance, to protect their families, to emulate their peers, to forge their identities as warriors or heroes, to overcome feelings of helplessness, or for lack of a better alternative (Webster, 2007, 235; Grossman, 2001, 326). Further, the reasons children most frequently join an armed group are; poverty, security, access to education, family and friends, group identity and ideology, and revenge (Barstad, 2009, 143).

For some children the military and the war are all they know of life, and they try to make the best of it, performing their duties to the best of their abilities, responding to the demands and pressures of their lives (Honwana, 2005, 50). Summarily, the decision to enlist often results from a convergence of economic, cultural, social, and political pressures that pushes children into the line of fire (Webster, 2007, 235). Pressures to enlist have been termed ‘pull factors’ in the decision to enlist (Francis, 2007, 212). These can include age, immaturity, curiosity, and patriotism (Somasundaram, 2002, 1269).

Armies usually will provide a child’s basic sustenance and may even pay parents directly for the use of their children (Webster, 2007, 235). Following the decision to enlist, some say that war becomes a source of personal enrichment, and a means of empowerment through the barrel of the gun. War becomes a real-life ‘playground’ to act out adventure and misplaced heroism (Francis, 2007, 212). As well, deception and manipulation play roles in which induce children to join up. Children are deliberately manipulated and deceived to join armed groups with the promise of financial payment or the opportunity to travel, only to find themselves in rebel camps and forced to fight (p. 213).

Many child soldiers fight for a cause that is portrayed as being in their political and economic interests (deBerry, 2001, 98). Summarily, they can be psychologically manipulated through a deliberate programme of starvation, thirst, fatigue, voodoo, indoctrination, beatings, the use of drugs and alcohol, and even sexual abuse to render them compliant (Dallaire, 2010, 118). Theoretically, voluntary recruitment has been conceptualized as a child’s deliberate membership in an armed group usually under ‘structurally coercive conditions’ such as poverty, food insecurity, and personal insecurity

(Park, 2010, 338). Furthermore, Park (2010) advocates that structurally coercive conditions are brought about by certain “conditions of possibility”, which can be defined as the social, cultural, and political-economic structures that shape society (p. 338).

Summarily, evidence suggests that the nature of war itself increases the chances of children’s recruitment into armed forces. The existing literature explains why children are favored in war times; most importantly their physical nature and emotional immaturity. Voluntary recruitment has been regarded by some scholars as a ‘way out’ of a seemingly desperate situation but for others it is seen as the proof for the need of punishment for such actions. Further investigation into this disagreement would be valuable as the number of former child soldiers will likely increase. Similarly, if risk factors for recruitment pertaining to the nature of war can be identified, would it not follow that efforts should be made focus on countering these factors? If preventing the recruitment of child soldiers is being prioritized, this information may be helpful in furthering such efforts.

#### *The functions of child soldiers*

The literature on child soldiers points to the conclusion that they perform a variety of functions aside from directly participating in combat. Child soldiers are used and abused in four distinct areas of most force constructs: as front-line fighters, psychological weapons, logistics support, and reconnaissance or information collectors (Dallaire, 2010, 139). Within the Sierra Leonean rebel group, the Revolutionary United Front (RUF), children were often used as a kind of human shield or the first line of defense in battle (Maira & Soep, 2005, 125).

Child soldiers also perform many non-combat functions. These include “laying mines and explosives; scouting, spying, acting as decoys, couriers or guards; training, drill or other preparations; logistics and support functions, portering, cooking and domestic labor...[and] sexual slavery” (Lonegan, 2011, 98). Although the term “child soldier” evokes an image of a heavily-armed boy, it also includes girls and unarmed children carrying out various tasks behind the front lines (Webster, 2007, 230). In the RUF movement, younger boys who could not fire a gun yet were forced into supportive activities (Bass, 2004, 167). It would be worthwhile for further investigation into the roles children play in war times when considering possible treatment for former child soldiers. The role the child played should be parallel with the treatment they received for greater effectiveness of measures taken to treat them physically and psychologically.

*Psychological/physical treatment of child soldiers during wartime*

Various authors have provided detailed accounts of the harsh treatment of child soldiers by their recruiters through accounts from the victims themselves as well as research in the field. Lonegan (2011) states “once recruited, however, child soldiers are subjected to brutal induction ceremonies in which attempts are made to harden children emotionally by punishing those who offer help or display feelings for other subjected to abuse” (p. 94). This treatment is also used to ensure children do not question the authority of the adults. Initiation strategies used to isolate and alienate the recruits included forcing them to eliminate their own relatives and to attack and loot their own towns and villages and kill their own relatives. This was done to impress on them the impossibility of going back (Honwana, 2005, 42).

The training that most child recruits are subjected to is often inhumane and grueling; it is designed to separate the strong from the weak, in the shortest time while using the minimum resources (Dallaire, 2010, 131). Military training involves use of firearms and engaging them in heavy physical exercise. This pushes children to high levels of physical exhaustion which creates mental states conducive to ideological indoctrination (Honwana, 2005, 41). Brutal hazing practices include everything from torture and beating to forcing the new recruit to commit these violations on others (Grossman, 2007, 328). Also, children were given drugs and other substances their time as with the RUF. Commanders used a concoction of amphetamines and herbs to desensitize child soldiers and eliminate fear of battle. Summarily, the outcome can be seen in "...the children's 'crazy' behavior [which] becomes a combat ritual through which [they] demonstrate their machismo in a deadly mixture of fearlessness and uncontrolled violence" (Lonegan, 2011, 96). The values children caught in these civil wars often acquire become warped because they are devoid of any respect for human life and common decency (Dallaire, 2010, 138).

The unprotected are exposed to any manner of disruptive, violent or uncivilized behavior that adversely affects their psychological and physical development (Faulkner, 2001, 497). Males and females as young as seven have been kidnapped and forced to become soldiers in the RUF. Young girls have sustained and suffered sexual and psychological abuse, and have been given as 'prizes' to top RUF commanders (Faulkner, 2001, 499). Children were also forced to fight against their will or face execution.

Due to the roles children play in war, they may suffer from a variety of physical health risks (Grossman, 2007, 327). Younger children are often malnourished and may

suffer from respiratory problems and skin infections. Child soldiers are at a high risk of drug and alcohol abuse, sexually transmitted diseases, pregnancy, and auditory and visual impairments from frequent exposure to landmines (Grossman, 2007, 327). Stress can reveal itself in a wide range of symptoms, including increased separation anxiety, developmental delays, sleep disturbances, nightmares, decreased appetite, withdrawn behavior, and a lack of interest in play. Younger children can have learning difficulties; older children and adolescents can show anxious or aggressive behavior and depression (Machel, 2000, 23). Girls are also frequently victims of sexual exploitation through rape, sexual slavery, and abuse (Grossman, 2007, 327; Machel, 2000, 23).

As previously mentioned, the rehabilitative treatment given to former child soldiers should be parallel to the roles they played during war times. The effects of such roles have been described here and we can gather that there is a consensus in the literature when providing such descriptions. Therefore, this information would be useful in the development of treatments for children damaged by war. However, there is a need for further investigation into how such effects can be treated; it would be necessary for more information to be provided than the descriptions summarized here.

### *Conclusion*

The information gathered from the literature on child soldiers allows the readers to educate themselves about this growing phenomenon because it provides a more accurate portrayal of child soldiers globally. However, I would recommend that this information be used to investigate a number of issues further such as a cross-country comparison of those areas that use child soldiers instead of collective statistics. As well, I would

recommend that this information be employed to further the argument that child soldiers should be rehabilitated and reintegrated as opposed to punished for their actions during war time as it is evident that voluntary recruitment is in fact not a matter of free choice at all. Lastly, I would recommend that this information be used not only in suggesting methods of treatment for former child soldiers but also in the argument that rehabilitation of these children is for the betterment of each child and of society.

### *Theory*

To understand the context of many wars which involve child soldiers, Park (2010) turns to the concept of ‘liberalised patrimonialism’. This is a patron-client system involving the distribution of resources as personal favors by leaders to networks of followers, thus binding “small men” to “big men” in an economy of loyalty for assistance (p. 339). This is conceptualized by the war in Sierra Leone as the war was characterized by exclusion of young people politically, socially, and economically, within the context of liberalised patrimonialism. During the 1970s and 1980s through the privatization of national resources and the shrinking state, the majority of Sierra Leoneans were left out of the patrimonial system facing cutbacks in health and education. Excluded from the patrimonial system or casualties of the state’s disappearing educational system, many youth were attracted to the RUF (Park, 2010, 340). Further, global anomie comes into play here as the disjuncture between goals and the means to achieve them can lead to a departure from socially accepted norms, making deviance possible (Park, 2010, 340).

Honwana (2005) introduces the concept of ‘new wars’ when discussing the child soldier phenomenon. The term refers to present day conflicts in which defenseless

civilians, especially children, women and elderly people are the primary targets (p. 42). Profound changes in the nature of warfare have contributed to the increasing involvement of children in warfare (Honwana A., 2008, 140). Weapons are light and very simple to use and can easily be stripped and reassembled. Civil wars tend to obliterate the distinctions between civilians and belligerents; the “battlefield” and the “homefront” become blurred. ‘New wars’ are mostly internal rather than between states and they can involve a number of actors that go beyond national boundaries. These wars are protracted, and can last years, even decades. Similarly, deBerry (2001) describes these wars as a “crisis of the state” (p. 93). The result is failure to bolster education and employment opportunities for young people, making children vulnerable to recruitment by rebels. These crises are often manifest in ethnic conflicts over power and access to resources.

These wars represent a ‘total societal crisis’ because they are not limited to combat between armed groups. In these new wars, child soldiers represent what Honwana (2005) calls a ‘tactical agency’; a type of resource that is devised to cope with and maximize the concrete, immediate circumstances of the military environment in which they have to operate in order to maximize the circumstances (p. 32). Contrastingly, ‘strategic agency’ requires mastery of the larger picture, of the long-term consequences of their actions in the form of political gain or benefits/profits; something that children are not able to access (p. 49). This theory allows us to account of a child soldier’s actions in the environment where they are recruited into armed forces. However, their actions are not pardoned nor are they condemned under this theory. Honwana (2005) states that while they [child soldiers] cannot be considered fully responsible for their actions, they cannot be completely deprived of agency (p. 48).



Honwana (2005) then turns to the process of 'social initiation' in stating that

Being well prepared to fight a war is understood to go beyond physical strength and master of military weapons, and to include a sense of responsibility, of right and wrong, of good and bad war practices—something that is acquire through 'social' initiation" Institutions that are responsible for this type of initiation have been disrupted by war therefore leaving the child to make sense of their world. Many children construct their own symbolic world with the means available to them (p. 37).

Kimmel & Jini (2007) state that there are three macro level dimensions in the institution that interact with each other, as well as three micro-level dimensions. These create a trickle-down effect that produces a negative psychosocial toll on the children affected by war (p. 741). Within the macro-level dimensions, political agendas of tyrants deeply institutionalized the absence of policies, poor enforcement and misguided policy application, contributing to child soldier abuse. In the micro-level dimensions, children in poverty-stricken communities are vulnerable to child soldiering. Also, families may contribute because of poverty, cultural or religious beliefs. Finally, psychosocial factors make children impressionable and willing to identify with a number of causes (p. 745). Using this model of macro and micro dimensions of the institution allows us to see how children may fall victim to child soldiering as well as what factors may influence a child's decision to take up arms.

According to Vautravers (2009) the gregarious instinct plays a strong part in a child's decision to join an armed group. Joining up can be seen as a form of group and individual security for people in precarious situations in some African or Asian nations (p. 104). Joining up also provides economic security to such children and may give them a sense of power and authority in an unstable environment.

Honwana (2005) relies on Giddens's theory of structuration to present a conflicting view of a child's agency through their actions during war. Agency here refers to the capability of doing something rather than the intention of doing something (p. 48). Further, by practicing the 'dialectic of control' children are agents in their own right as they can mobilize resources to change the actions of their superiors (p. 48). Under this concept, the child soldier is at least partially responsible for his or her actions.

Returning to the war in Sierra Leone, Park (2010) states that distributive injustice of post-independence and wartime left many children and their families destitute, producing structurally coercive conditions for children to join armed groups "voluntarily" (p. 341). Notably, lack of access to education (an aspect of distributive justice) may contribute to the decision to take up arms. Aside from providing shelter and food for young recruits, armed groups may be seen as another way to gain training that they might otherwise not receive due to the state of society post-conflict. We can infer that though this training is not pertinent to most employment opportunities, the guidance that is offered to the children may be what is most valuable to them.

Dallaire (2010) addresses the recruiter's role in preferring children as soldiers during wartime. The child is conceptualized as the "weapon of choice" for its reliance on low technology, simple sustainment requirements, unlimited versatility for low-intensity conflict, and capacity for barbarism (p. 3). Tapping in to these "resources" is like having a weapons arsenal in continuous production—a source of power available in limitless quantity with no counter-weapon to neutralize it (Dallaire, 2010, 117). After all, other soldiers may be reluctant to kill children, even in self-defense, a fact which recruiters are usually aware of and use to their advantage. Dallaire (2010) states that "we need to

understand how . . . [child soldiers] operate as a weapon system and the doctrine that governs them so that we can successfully neutralize their effect” (p. 139).

*Legislation pertaining to child soldiers*

The first piece of legislation that deals with children’s participation in armed conflict is the Additional Protocols I & II (1977) to the Geneva Conventions of 1949. Article 77 of the first Additional Protocol deals with protection of children and states the following:

The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen but who have not attained the age of eighteen years the Parties to the conflict shall endeavor to give priority to those who are oldest. (Article 77. 2.)

The second Additional Protocol emphasizes the need to ensure better protection for the victims of armed conflict. Article 4 (c) states that “children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities.” These Additional Protocols to the Geneva Conventions can be seen as the basis for the development of further legislation that will supplement the ideas presented in the protection of children participating in armed conflict.

The Convention on the Rights of a Child of 1989 is the first legally binding international instrument that emphasizes children’s rights as humans. Presently, it is most current and relevant piece of legislation pertaining to child rights and protection. Unlike the previous legislature that applies to children, The CRC states that “a child means every human being below the age of eighteen years” (Article 1). This convention goes further in depth in describing type of treatment and protection that shall be given to children that have been affected by or participated in conflict. Firstly, in all actions concerning

children, the best interests of the child shall be a primary consideration (Article 3. 1.) Secondly, States Parties shall ensure to the maximum extent possible the survival and development of the child (Article 6. 2.) Lastly, States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (Article 27. 1.)

Article 38 is specific to the state of children participating in armed conflict. It states:

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

And,

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict (Article 38).

Although the CRC defines a child as any human being under the age of eighteen, it is only forbidden for armed forces to recruit children under the age of fifteen in this Convention. Finally, the CRC addresses the rehabilitation and reintegration of children affected by war:

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child. (Article 39)

Article 39 states explicitly that children affected by armed conflict must be rehabilitated and reintegrated back into society in an environment that is in the best interests of the child. From 1989 and on, the legislation surrounding children's participation in war

shows an agreement in the type of treatment a child should receive in the aftermath of conflict.

In 1985, the UN Standard Minimum Rules for the Administration of Juvenile Justice, “The Beijing Rules”, came into force. These rules provide guidelines with which juveniles may be tried and prosecuted for crimes. This legislature emphasizes that in determining the age of criminal responsibility, it must be kept in mind the facts of emotional, mental and intellectual maturity. Article 5 (1) states that “the juvenile system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence.” This shows the importance of considering not only the nature of the offence, but also that the well-being of the juvenile in the juvenile justice system.

#### *Nature of treatment of children affected by war*

In determining treatment of children affected by war, there are elements of the legislation that are consistent with one another. The African Charter on the Rights and Welfare of the Child (1999) states that;

Recognizing that a child, due to the needs of his physical and mental development requires particular care with regard to health, physical, mental, moral and social development, and required legal protection in conditions of freedom, dignity and security.

As previously stated, children require special protection and treatment in this case that is parallel to their maturity. It follows that State Parties must ensure that the survival and development of the child are the primary consideration when determining how to treat a child affected by war. This is supported by Article 6 of the Conventions on the Rights of the Child which states that “State Parties shall ensure to the maximum extent possible the

survival and development of the child” (1989). When developing principles designed to guide interventions for the protection and well-being of children, The Paris Principles (2007) add to this concept by incorporating into its principles that children must have the most protective environment possible (1.11.4). The Convention on the Rights of the Child also plays a key role in aiming to guarantee protection for children affected by armed conflict (Article 38. 4.)

Accepting that a child requires treatment that will aid in his or her physical and mental development requires one to consider what will be in the best interest of the child to encourage such development. The African Charter on the Rights and Welfare of the Child (1999) states that “in all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration” (Article 4.1.) The Conventions on the Rights of a Child (1989) also prioritizes the best interests of the child with regard to treatment by to social welfare institutions, courts of law, administrative authorities and legislative bodies.

Finally, each piece of legislation that pertains to the treatment of children who are affected by war demands that rehabilitation and reintegration after demobilization be granted to former child soldiers. As children, former child soldiers have rights that entitle them to special protection and treatment that will ensure their growth and development. According to international and domestic legislation, rehabilitation and reintegration will allow this to happen. The CRC (1989) states that:

States parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of... armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child. (Article 39)

As the compulsory recruitment of children for use in armed conflict is considered one of worst forms of child labor by the International Labor Organization (Article 3 (a)), it follows then that the appropriate treatment would be to take effective and time-bound measures to provide rehabilitation and social reintegration (Article 7. 2.) The Maputo Declaration of 1999, Optional Protocol I to the CRC of 2000, Paris Principles of 2007, Montevideo Declaration of 1999 and the Agreement and Statute of the Special Court for Sierra Leone (2002) pertaining to the use of child soldiers are all in agreement in how children should be treated post-conflict. Not only should children be protected and have access to rehabilitation and reintegration services, but the demobilization package should provide long term help of a sustaining nature rather than just an immediate help to take into account the effect of future recruitment (Cape Town Principles and Best Practices, 1997). This support should come from a local level or national social welfare programmes and should benefit the families of such children as well (Paris Principles, 2007, Article 7.32).

#### *Age of criminal responsibility*

In 1977 the Additional Protocols to the Geneva Conventions stated that it was illegal to recruit children under the age of fifteen. However, for the most part it is universally agreed that a child is any person under the age of eighteen. For this reason many pieces of legislation calls for a consensus in the legislation to show that it is illegal to recruit children that are under the age of eighteen to further expand the span of protection.

The Cape Town Principles and Best Practices (1997), created to deal with the growing problem of child soldiers, states that a minimum of eighteen should be

established for any person participating or being recruited in armed conflict. The African Charter on the Rights and Welfare of the Child (1999) explicitly states that “a child means every human being below the age of 18 years”. Multiple other pieces of legislature is in agreement that the term ‘child’ is applicable to every person under the age of eighteen such as the Montevideo Declaration of 1999, the Maputo Declaration of 1999, Optional Protocol I to the Conventions on the Rights of the Child (2000), and the Paris Principles of 2007. However, is it concerning that the legislation that can be used in the prosecution of war criminals, such as the Rome Statute of the International Criminal Court (2002) and the Agreement and Statute of the Special Court for Sierra Leone (2002), is in accordance with a minimum age for recruitment as fifteen years old. The Rome Statute states that it is a war crime to “conscript or enlist children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities” (xxvi). Similarly, the Statute of the Special Court for Sierra Leone states that “Should any person who was at the time of the alleged commission of the crime be between 15 and 18 years of age come before the court, he or she shall be treated with dignity and a sense of worth...” (Article 7. 1.) These two elements of legislation point to the fact that not only is it a war crime to recruit children that are under fifteen and not under eighteen, it states that children who are over the age of fifteen can be tried in court for their actions during wartime. If we are under the impression that children are all people under the age of eighteen, why are those between the ages of fifteen and eighteen left unprotected in those pieces of binding international and domestic law?



*Punishment as a last resort*

Child soldier legislation points to the conclusion that former child soldiers should be rehabilitated and reintegrated back into society. When addressing juveniles accused of crimes under international law there is a consensus that confinement and punishment should be used as a last resort due to the immaturity and the context in which such crimes may be committed by children. After taking into account the circumstances of the offender and the offence, if confinement is chosen there are guidelines in the legislation that discuss how children should be treated.

The primary piece of legally binding legislation, The Convention on the Rights of the Child, considers the immaturity that comes with a young age by stating that the needs of persons his or her age must be taken into account (Article 37 (c)). Further the Convention states that “the arrest, detention, or imprisonment of a child... shall be used only as a measure of last resort” (Article 37 (b)). This is also supported by the Cape Town Principles and Best Practices (1997) which adds that if institutionalization occurs, it should be for the shortest time possible and efforts to find other solutions should continue. This is further supported by the Paris Principles (2007) and the Rome Statute of the International Criminal Court (2002). There are a number of alternatives to arrest and confinement such as supervision orders, counseling, probation, foster care, educational programmes, etc. As punishment and confinement shall be treated as a last resort, family reunification shall be the primary goal of those working with children after demobilization. This is supported by the African Charter (1999), the Paris Principles (2007), and the Montevideo Declaration (1999).

The Rome Statute of the International Criminal Court (2002) states:

The Court shall have no jurisdiction over any person who was under 18 at the time of the alleged commission of a crime. Children should not be prosecuted by an international court or tribunal. (Article 8.6)

This clarifies two things: first, under international law, all persons under the age of eighteen are considered as children. And secondly, that children should not be prosecuted by an international court or tribunal for their actions during wartime. However, there are still pieces of legislation that are not in accordance with this Statute. The Agreement and Statute of the Special Court for Sierra Leone, the tribunal used for the prosecution of war crimes in Sierra Leone, still considers children those under the age of fifteen. This Statute states that “the Special Court shall have no jurisdiction over any person who was under the age of fifteen at the time of the alleged commission of the crime” (Article 7. 1).

*Victims or perpetrators? Arguments for and against the punishment of child soldiers*

International law now recognizes child soldiers as victims of war crimes, deserving of state compassion as both national and rebel groups are prohibited from using children as soldiers (Lonegan, 2011, 71). This is due to their physical and mental immaturity and lack of responsibility. Therefore, many hold the opinion that child soldiers are victims of war crimes committed by those who recruit and use them (Barstad, 2009, 142; Dallaire, 2010, 127). This argument prevails whether the recruiting party was national or rebel, and whether recruitment was voluntary or forced as children are instruments used by those who command them. Furthermore, this opinion is often the basis for urging the international community to place the blame on individuals who recruit children, as it is and punish them accordingly.

Children are considered victims of war crimes when they are recruited and used during armed conflict. Stuebing (2005) states that the violation of children's rights happens not only through their inclusion within the ranks, but additionally through the issues absent or inadequately addressed during rehabilitation (p. 120). Summarily, their rights are violated during their recruitment as well as if they are deprived of proper rehabilitative treatment in the aftermath of war.

The basis for arguing that children deserve the opportunity to be rehabilitated and reintegrated is often a result of their inability to understand the consequences of their actions. DeNevers (2006) states that children cannot choose to fight in the way adults do because they cannot understand the dangers or consequences of their actions (105). Further, as children are often powerless within the ranks they are in no place to question or disobey authority. This is especially the case when they are faced with the decision to 'fight or be killed'. Grossman (2007) summarized by stating that:

If a child does not understand that he or she may choose to disobey an order to protect community welfare or to avoid self-condemnation, it may be inappropriate to hold or her accountable for crimes when ordered by a supervisor or in the context of collective armed action. (p. 349)

Children are most often without the training and education that teaches them the laws of war and the difference between right and wrongful killing. When licensed, the responsibility for killing lies with initiated individuals—persons whose military training prepares them emotionally for the consequences of such an act (Honwana, 2005, 36). The indiscriminate and fearless killing exhibited by some child soldiers may allow us to think that they are fully aware of their actions, however, "it does not seem to have brought about their 'social' transition into adults and responsible persons" (Honwana, 2005, 43).

In conclusion, as children are not in a position of power they may not be fully conscious of ultimate goals of their actions (Honwana, 2005, 32).

The basis for arguing for rehabilitation and reintegration of child soldiers can be regarded as not only in the best interests of the child, but for the community as well.

Maira & Soep (2005) state:

The idea that anyone under eighteen years is a child and therefore not held accountable allows whole groups of young people to be forgiven by their communities... this helps the young people who are struggling to reintegrate; also helps the communities to which they are moving. (p. 132)

The memories of war must be specifically addressed through processes of justice and community healing (Machel, 2000, 44). This can help entire nations move towards peace in the aftermath of war.

The responsibility often lies with the state, civil society, and the international community to address the needs of children affected by war as well as punishing those guilty of war crimes (Som, 2002, 1268; Grossman, 2007, 346; Machel, 2000, 25). It is widely advocated that these needs should be met through rehabilitation and reintegration of former child soldiers back into society. Specifically, children should be offered appropriate psychological, socioeconomic, and educational opportunities for rehabilitation (Som, 2002, 1270; Maira & Soep, 2005, 123). Further, psychological support should consist of structured activities designed to restore children's psychological and social development and to mitigate the adverse effects of armed conflict (Machel, 2000, 24). Some authors advocate for the inclusion of children affected by war in the peacemaking process. These children have special needs and therefore should occupy a

role in the peacemaking process that recognizes their vulnerabilities, with a view toward their rehabilitation (Grossman, 2007, 347).

As previously stated, number of child soldiers globally is between 300 000 and 500 000. They make up sizeable portion of most rebel armies and have high numbers in national armies as well. Considering these facts, the damage done by these children is paramount in many intrastate conflicts. It follows then that child soldiers may be a threat to national security and the stability of post-war political order (Francis, 2007, 209). The effects of war on child soldiers can be seen in everyday life through the violent disrespect they have for themselves, their peers, and often the elders in their communities as their normal development and education is disrupted. They are traumatized and often cope and operate within the 'gun mentality' as they do not have access to family support. Former child soldiers are largely overlooked, abandoned, and treated as a lost generation (Francis, 2007, 209).

The respective state, along with the international community, is responsible for addressing the needs of former child soldiers such as demobilization and reintegration. However, others are of the opinion that it is the responsibility of the state to punish children for their actions under international law. This is clear in the support shown by many international community members for criminal tribunals for those who participated in conflicts in Rwanda and the former Yugoslavia. Here the duty of the state is to punish those who have committed serious war crimes. If children are the perpetrators of crimes under international law, how should they be dealt with? Honwana (2005) states that "while child soldiers cannot be, on one hand, considered fully responsible for their actions, they cannot, on the other hand, be completely deprived of agency" (p.48).

Concerns have been voiced about the appropriateness of criminal trials and punishment for former child soldiers considering their psychological and moral development as the effects that trials may have on children could be detrimental to their healing and recovery. This is addressed in international law as the consensus is that children under fifteen should not be prosecuted. In the aftermath of war, peace and reconciliation is placed in the highest priority. There is difficulty in balancing the need for justice and the reconstruction of a war-torn society. Machel (2000) states that “institutionalization has been shown to be detrimental to the social and psychological development of children as it isolates them from their communities and increases their marginalization” (p. 24). We are led to the conclusion that children should be dealt with in a manner appropriate to their needs, such as rehabilitation and reintegration programs. Any judicial proceedings involving child soldiers must be within a framework of restorative justice that guarantees the physical, psychological and social rehabilitation of the child (Machel, 2000, 12).

## FINDINGS

### **German Case Study**

The purpose of the Hitlerjugend was to attract the support of young German boys for National-Socialism. According to Hitler, “whoever has the youth has the future” and so it was necessary for the creation of a system that would allow the youth to be educated and trained with the idealisms of the Nazi regime (Kunzer, 1938, 342). The outdoor camps allowed the youth to enjoy the freedom of the outdoors and relieve some of the pressure being placed on them by school authorities. Upon reaching age eighteen, Hitler Youth

boys were pressured to enlist immediately in the armed forces (United States Holocaust Memorial Museum).

The Hitlerjugend member was the future soldier of Germany: Nationalism was his conviction, Hitler his idol, and Germany his passion (Stachura, 1973, 167). To further appeal to the young boys and gain their trust and support, Hitler accorded them a variety of privileges; they had the right to carry dagger, wear uniforms and could issue commands. These things were done not only to gain support but to allow the youth to feel as though they were playing an important part in the movement. Hitler promised the youth work and a life of prosperity in the glorious new empire to be created after the inevitable German victory. The Nazis were further able to entice youth by appealing to them with symbols, martial music, colorful flags, and uniforms to fuel their enthusiasm for the regime. Hitler was able to instill into them the idea that it is glorious to die for your country and called upon youth to establish a firm foundation for building the Third Reich (Kunzer, 1938, 346).

The education system enforced by the regime allowed the Nazis to train the youth who were either prepared either for direct incorporation into the army or for a political career in the new Reich. In describing the educational camp one author wrote “the Hitlerjugend camp functioned undoubtedly as a disciplinary space, carefully planned and managed with the aim to reproduce politically instrumental subjectivities—in this case amendable, dutiful, nationalist and anti-Semitic German men” (Cupers, 2008, 185). The Hitlerjugend youth were manipulated and exploited to an unprecedented degree through strict controls that played into the aggressive instincts of the youth and further turned them against the institutions and organizations of the ‘old order’. Many children of World

War II experienced a combination of trauma, such as a threat to their lives or lives of loved ones, loss of home, friends or family members, and deprivation of food, water, and housing (Werner, 2001, 220). After the war opportunities for education and employment were not readily available which had a negative impact on the rest of their lives.

The Hitlerjugend camps developed by Hitler also functioned as a tool to train the children in obedience as well as preparing them to become soldiers. Within the camps the youth had access only to approved materials such as propaganda programs and other materials portraying Hitler's views, allowing him to gain more influence. The youth weren't taught anything that strayed from the agenda of keeping them under Hitler's control. Hitler blamed Jewish people and other non-Aryan groups for all of Germany's problems. The education provided taught them to be disciplined and obedient as well as unquestioning of the regime's ideals.

What this military and psychological training produced were fanatical young soldiers. One example is the 12<sup>th</sup> SS Hitler youth division. It consisted of young soldiers between sixteen and eighteen years of age. This unit was involved in the brutal murder of prisoners of war in 1944, transpiring in the days after the invasion of Normandy. The men of the 3<sup>rd</sup> Canadian Infantry Division faced the Hitler youth division whose soldiers were described as a "superbly equipped formation comprised of young, fit, and aggressive soldiers" (McMackin, 2011, 32). One author wrote that all of the men died of head trauma, either by the beating in of the skull or by a bullet. The young soldiers killed relentlessly taking advantage of those who were wounded, unarmed, or simply moving too slowly (p. 31). In 1944 Kurt Meyer, a commander of the division, was captured and tried in a Canadian military court in Aurich in December 1945 for the deaths of the



Canadian soldiers in Abbaye. The crimes fell into the category of killing POWs at a headquarters behind the lines in the presence of officers making them punishable under international law and conventions of war.

The Hitlerjugend was not Hitler's only attempt to gain control over the German population, particularly the youth. In the last year of the war, Hitler was desperate to continue the war in hopes that Germany would still be victorious. The Volkssturm was a compulsory, Nazi-administered local defense militia composed of all German civilian males from age sixteen to sixty. The call to arms which was issued on 18 October 1944 literally swept all males not already taking part of the German Armed Forces into a single organization (Military Intelligence Division, 1945, np). One of the main functions of the Volkssturm was to aid in the indoctrination of the population by fanaticizing the civilian population, particularly the youth. By the end of the fighting, some of those enlisted in Volkssturm were as young as twelve years old. Hitler counted on these young boys for their fanatical bravery and their belief that they still had a chance at winning the war (Yelton, 2000, 121).

Historically, children have also been used in special mission and operations. Webster (2007) provides that during World War 2, Nazis employed child fighters to carry out underground missions on a large scale (p. 229). In January of 1945, the Russian Army entered Prussia and days later the tanks entered Upper Silesia (Werner, 2001, 121). Opposing the Russians were groups of upwards of five thousand sixteen year olds who had been drafted into the Volkssturm. The young boys of Germany were known for their determination to still win the war. They would often battle until the last boy was killed rather than surrender (The History Place, 1999, np). American troops reported capturing

boys as young as eight, and fighting artillery units that were solely operated by boys twelve and under. Young girls were also used and could be seen operating anti-aircraft guns alongside the boys.

Hitler targeted youth in the formation of both the Hitler Youth and the Volkssturm for a number of reasons. One of Hitler's main goals was the success of creating the "master race" and utilizing children could help him do this. By nature, children are more teachable and their way of thinking can be easily molded. Appealing to their desires by offering special privileges and incentives, such as uniforms, Hitler was further able to gain support from the children. In return the youth dedicated themselves to his cause. Hitler also projected a father figure on the children helped to persuade them into thinking that he cared about them and their future. This could only strengthen their trust in him and further envelop them into his way of thinking and the goals he had.

### **Sierra Leone Case Study**

Civil war began in 1991 when the rebel force Revolutionary United Front, or RUF, sparked conflict in its violent attempt to gain control over the diamond wealth in Sierra Leone. Aiding the rebel force was a sub-group of the Sierra Leonean Army, the Armed Forces Revolutionary Council (AFRC), which formed after a coup d'état by its members in 1997. At the opposite end of the conflict was a paramilitary organization Civil Defense Force (CDF), a pro-government force, whose goal was to restore the government of President Tejan Kabbah. Both sides of the conflict were involved in committing some of the worst human rights abuses including the recruitment and use of child soldiers. According to UN estimates from 1991 to 1999 government and rebel forces in Sierra

Leone recruited around 10 000 children to serve in the civil war (Bass, 2004, 171). Most African countries set the legal draft minimum age at eighteen but this is often ignored during times of conflict. Drawing the line for allowing youth to participate in war as a soldier or a support position is further complicated by the fact that cultural traditions show that it is neither illegal, immoral or unusual to use children as sources of labor (Pham, 2005, 108).

The decade long diamond-fuelled conflict in Sierra Leone gathered considerable international attention and dismay because of the atrocities committed by the rebels. The rebels engaged in rape and sexual violence, abductions, mutilation, amputations as well as wide scale burning of villages. The RUF quickly swelled its ranks through the voluntary and forced recruitment of children and youth. The CDF, based on the organizational structure of traditional hunting societies, also included a large number of child and youth combatants (Park, 2010, 330).

Youth were given many reasons to join the rebel force, the RUF, or the pro-government fighters during the civil war in Sierra Leone. Most important is the economic factor which induces children to join a fighting force in order to have access to food and shelter. Moreover, the government has failed to provide any sort of educational training or programming that would allow youth to develop skills for employment. Indeed, loss of educational opportunity is a major factor in joining an armed group. Civil strife, high-level of corruption coupled with economic failure resulted in the collapse of the education system in Sierra Leone. Accounts repeatedly stress that it makes little sense to stand down voluntarily without any real promise of social reintegration, education or training, or civilian job prospects (Peters & Richards, 1998, 187). Half of all combatants in the Sierra

Leonean conflict were between the ages of eight and fourteen (Pham, 2005, 108). As previously mentioned, disenfranchised youth, street children, and secondary school drop-outs allowed the ranks of the guerilla forces to swell quickly through a mixture of voluntary and forced recruitment.

Upon joining the rebel and pro-government forces recruits faced the harsh reality of war and life in the ranks. Many were drugged and indoctrinated into the systematic practice of killing, raping, and maiming their victims. Child soldiers were armed with pistols, AK-47s, machetes, and participated in killings and massacres as well as the humiliation of elderly people. The most brutal of the acts committed by child soldiers being persuaded by commanders to take part in the torture and execution of family members before moving on to commit the same acts in neighboring villages. Within the CDF, child fighters would often follow at the rear to kill the wounded enemy with machetes. The repeated practice of forcing the child combatants to complete such brutal tasks can be thought of as a type of training or conditioning to produce desensitized, hardened, conscious-less killers who will be able to carry out orders effectively. As a result of such conditioning and the immaturity that comes along with such a young age, many children conformed to the duties of soldiery, fighting without inhibitions. One author wrote of such killing as “an extension of play” (Peters & Richards, 1998, 186).

The Special Court for Sierra Leone was established by the government of Sierra Leone after the civil war (1991-2001). The court was set up as part of an agreement between the Sierra Leonean government and the United Nations. It would function as a mixed international and national court to try those who were accused of war crimes. The court’s mandate was to try those:

Persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996, including those leaders who in committing such crimes, have threatened the establishment of and implementation of the peace process in Sierra Leone. (Howarth, 2008, 401)

Since then the court has indicted thirteen individuals accused with war crimes, crimes against humanity and other serious violations of international humanitarian law.

Members of the AFRC were found criminal responsible for acts of terror, collective punishments, unlawful killings, rape, physical violence (mutilation), outrages upon personal dignity (sexual slavery), recruitment of children under the age of fifteen, enslavement, and pillage (Howarth, 2008, 402). As a result of the trials, the defendants were convicted of eleven of the fourteen counts on the indictment and collectively were sentenced to one hundred forty-five years imprisonment. Members of the pro-government paramilitary, the CDF, were found criminally responsible for acts of murder, cruel treatment, pillage and collective punishment as war crimes. One of the leaders of the CDF was convicted of recruiting and using children under fifteen (Child Soldiers Global Report, 2008).

Charles Taylor, former president of Liberia, was one of the highest ranking commanders tried by the Special Court for Sierra Leone as well as the International Criminal Court in 2006 for war crimes relating to his involvement in the ten year civil war. After winning presidency through coercion and intimidation of the Liberian people, Taylor continued to accumulation personal wealth though the use of the RUF. Taylor was a focus in international news and journals and eventually was pressured to resign to later be extradited to stand trial for war crimes in the Special Court for Sierra Leone for war crimes and crimes against humanity. The Prosecutor for the Special Court of Sierra Leone

alleges that Mr. Taylor bears individual criminal responsibility for the crimes on the basis that he allegedly took a leadership role in the crimes as he planned, instigated and ordered such crimes. Taylor was charged with crimes including terrorizing civilians, murder, outrages on personal dignity, cruel treatment, rape, sexual slavery, mutilating and beating, enslavement, and recruiting and using child soldiers (Open Society Justice Initiative, 2012, np). In May of 2012 Taylor was found guilty of the crimes and was sentenced to fifty years in prison (np).

This court is unique not only in the respect that it is made up by a team of international and domestic law experts but also because of the nature of its mandate. The Special Court for Sierra Leone's directed the prosecutor to go after those who played a leadership role in the conflict and those who have threatened the establishment and implementation of the peace process in the country (Howarth, 2008, 403). However, this means that it will only deal with a very small number of accused. Another concern has been raised as Howarth (2008) who claims that "the interests of the victims could have therefore been better served by... a greater number of prosecutions targeting not only national leaders but also regional and mid-level commanders" (p. 405). For this reason the mandate of the Special Court has been problematic, however it has been successful in setting a precedent for the conviction of war criminals.

## ANALYSIS

For children who feel abandoned by the world and left powerless being part of an armed group can give them a sense of power that, with coercion and intimidation, can be turned against all outsiders. This feeling, coupled with the desertion and alienation from their

families and communities, pulls them further into a world of conflict and violence becomes a form of expression. It can be said that the power of child soldiers in Sierra Leone was defined, actualized, and understood through violence to battle the crisis affecting Sierra Leonean youth (Maira & Soep, 2005, 126). These observations also apply to the teenagers of the Hitler Youth that were sent to the front lines to stop Russian tanks and other Allied Forces. During the time Hitler was in power, youth were constantly being indoctrinated with his ideals through propaganda and the Nazi education system. Children were taught to hate those who were not going to be part of the “master race”. As well, they were shown that violence is necessary as their loyalty and willingness to fight was celebrated and praised by Hitler. Children were made to believe that the country’s goals could only be gained through violence as they faced Allied attacks in the front lines. Hitler recognized the youth were a vulnerable and politically significant group and therefore targeted them for an army of soldiers trained to kill and fight to the death. As they understood it, this was necessary to defend the leader and the nation.

In Sierra Leone, children were the most economically disadvantaged group due to their dependence on others and the lack of employment and educational opportunities in their communities. Their state can be thought of as a crisis of survival. Being aware of this and the fact that their livelihoods were not a priority in society, many children looked to other means. Joining armed groups teaches disenfranchised children that the only way to gain control and power is to use violence. Joining up alienated such children from their communities and further shaped their mentality of violence as a tool of survival as well as an expression of their frustration and anger.

Though both groups of child soldiers deemed violence to be instrumental in meeting their goals, the pull factors to join were different in some aspects. Many Sierra Leone youth joined for reasons of survival and protection from other armed groups. Although some have admitted that it was the power and control that attracted them to join, their status in society convinced them that armed groups may provide them with the things they had been deprived of such as food, water and shelter. In the case of German child soldiers, great measures were taken to convince them that fighting for Germany was honorable. Education programs and propaganda instilled in them the ideal that it was their duty to fight against the Allies to preserve Germany's future.

A number of child soldiers in both the German and Sierra Leone cases were forcibly recruited by armed forces. In the German case, the call to arms in 1944 which resulted in the formation of the Volkssturm required that all those who were sixteen or older fight in the German forces against the invading Allies. Though the official call was directed to those who were sixteen and above many young children participated as well. Also, the Hitler Youth were subject to military training in the education program mandated. Children were often targeted in Sierra Leone by armed groups to reap the benefits of using child soldiers discussed in the former part of this paper. These groups did not only target children for recruitment but they took steps to indoctrinate the child soldiers into performing the duties required of them. The Hitler Youth were taught to hate and use violence against minorities while child soldiers in Sierra Leone learned that their goals could only be achieved through violence on others. Those who used child soldiers in both cases took advantage of their immaturity and vulnerability and used them to move closer to their goals.



An analysis of the case studies presented and the legislation pertaining to children's participation in armed conflict has led to the conclusion that rehabilitation and reintegration of former child soldiers is appropriate. Children lack the maturity, knowledge, and experience that would give them insight into the consequences their actions might have; they merely act as they have been trained. It is for this reason that they are deemed worth of special protection and care that is supposed to keep them from participating in armed conflict. Further, the legislation that is meant to protect children rests on the foundation that treatment should be based on their best interests. Children should not be punished for their actions during wartime as the practice itself of recruiting children is a violation of international law. This means ensuring their proper development and survival and in the case of child soldiers, rehabilitation and reintegration. In all cases, arrest and detention of children should be considered a last resort.

Although one can draw the conclusion that child soldiers are meant to be protected under international law, the ability of the legal documents to do this must be discussed. Children continue to be used as child soldiers in many countries though they are to be protected in international law. This leads to the conclusion that protection mechanisms are failing. One significant problem of enforcement is the difficulty of incorporating international law into domestic law.

Although laws meant to protect children are supposedly to be enforced internationally, reality is often different. Authorities in most countries are preoccupied with enforcing the agenda of domestic law and not that of an international nature. This affects how and when international laws may be enforced as the two laws may not be in agreement with each other. For example, there are gaps between domestic and

international law on children in conflict with the law in Sierra Leone. The country's domestic law is not up to date. It does not incorporate international standards such as the CRC, the African Charter on the Rights and Welfare of the Child, and others. Further, domestic laws are inconsistent defining the age of a child. In some instances, a child is referred to as under the age of fourteen while others define a child as a person under the age of sixteen. However, the current Draft Child Rights Bill for Sierra Leone has moved forward to bring the laws to a consensus by defining a 'child' as a person below eighteen years (Child Justice Strategy, 2006, 11).

### *Call for action*

Legislation pertaining to the treatment of children in the aftermath of war points to the conclusion that children should be accorded special protection and treatment. This treatment should be in form of long-term rehabilitation and reintegration into society to lessen the likelihood of recruitment in the future by armed groups. In cases where children are being accused of the commission of crimes under international law, family unification and rehabilitative alternatives should be prioritized and arrest and detention treated as a last resort.

Those involved in the development of each of these pieces of legislation have called on the international community to take action to better protect children from becoming a part of an armed group and suffering the negative consequences. Children that become part of an armed force in countries that unlawfully recruit them can be subjected to treatment that endangers their development as well as their physical and psychological well-being. Children who are currently being used as child soldiers in

armed conflicts must be demobilized into safety. The first step in minimizing risk is to put an end to the illegal recruitment of those under the age of eighteen in armed conflict. This means greater efforts to protect children who are at risk of recruitment as well as arresting and punishing those who are guilty of this crime.

Child soldiering is a crime under international law; therefore those who recruit and use children should be stopped and punished. Additional Protocol II to the Geneva Conventions of 1977 states that “children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities” (Article 4 (c)). This is in agreement with Additional Protocol I to Geneva Conventions. As well, the Rome Statute of the ICC of 2002 confirms this in international law by deeming “conscription or enlistment of children under the age of fifteen years” a war crime as it is a breach of the Geneva Conventions of 1949 (Article 8. 2 (a)(xxvi)). This also applies to conflicts not of an international character. Considering NATO countries continue to recruit teenagers that have not attained eighteen years, the Convention recommends giving priority to those who are older when recruiting. Lastly, the CRC states “States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen to not take a direct part in hostilities” (Article 38. 2). The CRC’s first Optional Protocol raises the age from fifteen to eighteen regarding recruitment. Summarily, it is a crime under international law to recruit children to take part in armed conflict therefore those who are found to have done this must be brought to justice. In such situations children should be treated not as perpetrators of violence, but as victims of the illegal offense of recruitment into an armed group.

*Recommendations*

According to international law, those who recruit and use child soldiers should be punished for their actions as they are war crimes. Former child soldiers should be thought of as victims deserving of the proper measures to allow them to heal and rehabilitate with the goal of reintegrating them into their communities. Criminal trials are an inappropriate measure for former child soldiers and bear the risk of further endangering their development. Alternatives are available which allow those who have been victimized by child soldiers to heal attain some sense of justice.

Restorative justice is based on a concept of justice that takes into account the interests of all parties in a criminal prosecution; the State, victims, and offenders. Restorative justice allows children to be made aware of the consequences of their actions and the gravity of such actions so they know that such behavior will not be tolerated. Children are then held accountable to the persons who were affected by their actions such as the members of their communities. These elements of juvenile justice can be considered ‘child-friendly’ as they avoid the deprivation of liberty and allow for successful integration into the society (Peters L., 2005, 23).

Morini (2010) states that the purpose of holding former child soldiers responsible should be primarily for their rehabilitation and reintegration into society (p. 204). This can be done by promoting restorative justice and avoiding the effects of prosecution and punishment on children. Traditional justice mechanisms can be alternative to national courts, provided they maintain the basic international standards of justice and children

rights (Peters L., 2005, 23). Most often these methods focus on the victims while restoring relations within the community as this facilitates the reintegration of the child.

Commissions can also serve as important instruments to build stability in societies where entire populations have been traumatized (Morini, 2010, 204). The Sierra Leone Truth and Reconciliation Commission (TRC) was an outcome of the Lome Peace Agreement between the Government of Sierra Leone and the Revolutionary Front. This commission was the first to focus on children's role in the reconciliation process. Children were involved in statement-taking and closed hearings, as well as the preparation of the child-friendly version of the Commission's report. The purpose of the Sierra Leone TRC as defined by Morini (2010) was to:

Create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone; to address impunity; to respond to the needs of the victims; to promote healing and reconciliation, and to prevent a repetition of the violations and abuses suffered. (p. 205)

In addition, the Sierra Leone TRC helped to produce an understanding of how children carried out crimes, understand their own actions as child soldiers, and how such activities might be prevented in the future.

There were a number of precautions taken to ensure the safety of the children and to prevent them from being harmed further. Special protection and child-friendly procedures serving the child's best interests at all times were assured such as special hearings for children, closed sessions, a safe and comfortable environment for interviews, protection of identity, and staff trained to support the children (Morini, 2010, 205).

When considering the potential effects and benefits of utilizing the alternatives to judicial proceedings and prosecution of child soldiers conflicted in the law, we must again look at the potential effects of punishment. Children may face further violations of their rights due to poor detention facilities and the lack of a proper judicial process (Peters L., 2005, 24). Therefore, children who have committed war crimes should have access to alternatives that contributes not only their treatment and reintegration, but the reconciliation of their communities as well. This can be done through community mediation, reconciliation, and peace building initiatives.

A study done by Wessells (2005) showed that peace education in a post conflict setting aids the reintegration of former child soldiers by stimulating empathy, cooperation, reconciliation, and community programs for non-violence conflict resolution (p. 368). The children were involved in dialogue with community members, project building (schools, health posts, etc.), and hands-on skills training. The project resulted in visible reductions in fighting with over ninety percent of former child soldiers back to having a “civilian identity” and high hopes for the future (Wessells, 2005, 368). Those in the community who initially had negative feelings towards the children began to see them positively and as a part of the community. Wessells (2005) concluded the study by stating:

Much youth violence is preventable by creating positive life option and socializing them for peace rather than war. A significant task for peace educators worldwide is to use their practical tools to counter the extremist ideologies and limited life options that draw youth into lives of violence and terrorism” (p. 368).

*Conclusion*

In many countries children have been forcibly recruited or volunteered to be combatants in armed groups or serve in government forces. Leaders view children favorably as their immaturity allows them to be easily convinced and trained to commit horrific actions during wartime. Manipulation and indoctrination play a major part in pulling children into armed groups and teaching them to fully commit themselves to the cause. Former child soldiers have provided many reasons why they may choose to join an armed group including survival and the desire to receive training that was unavailable to them. Membership in armed groups can result in inhuman treatment by their superiors and the physical and psychological effects are devastating.

International law considers children to be any person under the age of eighteen. The legislation pertaining to children's involvement in war argues that they deserve special protection in international law. The majority of legislation is in agreement that the age of criminal responsibility in international law should be at age eighteen. Also, children's best interests shall be at the forefront of all decisions pertaining to their treatment and they should not take part in proceedings that will further threaten their development. Lastly, the legislation states that punishment should be used as a last resort. Many legislation pieces call for efforts to be put into demobilizing child soldiers immediately with rehabilitation and reintegration to follow. However, these efforts often stop short of providing former child soldiers with the treatment they need once they are taken out of armed groups. Children are often sent back to communities where they are unwelcome and risk being recruited back into armed groups.

An analysis of the cases shows that children in both instances were targeted and recruited by armed forces to advance their ultimate goals. Children were viewed as an asset because they are easily taught and they are expendable during wartime. In both cases, actions were taken to punish those who had a leadership role in the conflict. Often, former child soldiers are left to fend for themselves in the aftermath of war. An analysis of the Sierra Leone Truth and Reconciliation Commission showed that alternatives to judicial proceedings were effective in healing both the victims and the child soldiers. Restorative justice and peace education have been presented as favorable alternatives. These methods utilize dialogue between child soldiers and their communities to help building an understanding of how child soldiers were able to commit terrible acts as well as giving community members an opportunity to voice their concerns and show their pain. Skills' training has been used in peace education to allow child soldiers to gain valuable skills and as an outlet for expression.

Childhood should be defined by having the type of environment that allows children to grow, develop, and learn. As their immaturity and impressionable characteristics may make them attractive to those who may want to exploit them, all efforts should be directed towards providing them with protection. Realistically, it is impossible for such protection to prevent all undesirable things from happening to children. However, once children are brought back into safety they should be accorded with the proper measures to allow them to heal and continue to develop.

Omar Khadr's case symbolizes what is wrong with the current system in protecting children. Khadr was put in jail when he was just fifteen, essentially robbing him of the few years left of his childhood. Due to the 9/11 attacks, the actions of the U.S.



authorities were warranted as the USA Patriot Act expands the powers of the authorities under threats of terrorism. Khadr was incarcerated before being found guilty without access to a lawyer or option for a trial. He was then sentenced by a U.S. military court. Once he has served the remaining seven years of his sentence, Khadr will be released without any measures taken to ensure his treatment will allow proper reintegration. The scars of the war he was part of will remain.

Children should not be punished for the actions during wartime because they are based on coercion and manipulation by those who recruit them. Children are generally do not take leadership roles in conflict nor are they fully able to understand the consequences of their actions. Also, the very recruitment of children under the age of eighteen is deemed illegal in international law. It follows that the perpetrators of these acts must be punished. Children should be considered victims of war crimes. The international community must take action to ensure that former child soldiers are properly rehabilitated and reintegrated into society. Alternative measures for children accused of war crimes must be considered to allow these abused children and their communities to heal and move forward. Such children must not be viewed as a lost cause because with the proper treatment and care they can continue to grow into valuable members of society.

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